

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

NATHANIEL CLAYBROOKS and
CHRISTOPHER JOHNSON, individually, on
behalf of all others similarly situated,

Plaintiffs

v.

AMERICAN BROADCASTING COMPANIES,
INC., WARNER HORIZON TELEVISION, INC.,
NEXT ENTERTAINMENT, INC., NZK
PRODUCTIONS, INC., and MICHAEL FLEISS

Defendants

CLASS ACTION COMPLAINT

Case No. 3:12-cv-00388

Judge Aleta A. Trauger

**DEFENDANTS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
DEFENDANTS' MOTION TO TRANSFER VENUE**

Pursuant to Rule 201 of the Federal Rules of Evidence, Defendants American Broadcasting Companies, Inc., Warner Horizon Television Inc., Next Entertainment, Inc., NZK Productions, Inc., and Michael Fleiss (“Defendants”) respectfully request that this Court take judicial notice of the following documents in connection with Defendants’ Motion to Transfer Venue:

- U.S. District Court Judicial Caseload profiles for the United States District Court for the Middle District of Tennessee and the United States District Court for the Central District of California, attached hereto as Exhibit 1, and located at <http://www.uscourts.gov/viewer.aspx?doc=/uscourts/Statistics/FederalCourtManagementStatistics/2011/DistrictFCMSProfilesSeptember2011.pdf&page=45> and <http://www.uscourts.gov/viewer.aspx?doc=/uscourts/Statistics/FederalCourtManagementStatistics/2011/DistrictFCMSProfilesSeptember2011.pdf&page=68>.

Good cause exists for the Court to grant this Request for Judicial Notice. Federal Rule of Evidence 201(b) provides that “a judicially noticed fact must be one not subject to reasonable dispute in that it is...capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Courts routinely take judicial notice of information made available on websites whose accuracy cannot reasonably be questioned, such as government agency websites. *See O’Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) (“It is not uncommon for courts to take judicial notice of factual information found on the world wide web.”); *see also City of Monroe Emps. Ret. Sys. v. Bridgestone Corp.*, 399 F.3d 651, 6555 n.1 (6th Cir. 2005) (taking judicial notice of a term defined on the website of the National Association of Securities Dealers, Inc.). Here, Exhibit 1 is a printout from the United States Courts’ website, the content of which is subject to judicial notice.

Based on the foregoing, judicial notice of the document indentified above and attached hereto is proper. *See* Fed. R. Evid. 201(d) (“A court shall take judicial notice if requested by a party and supplied with the necessary information.”).

DATED: July 20, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served this 20th day of July 2012, by filing the document pursuant to the Court's CM/ECF procedures, which includes electronic service upon the following:

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This 20th day of July 2012.

By: /s/ Shelby R. Grubbs

EXHIBIT 1

U.S. District Court -- Judicial Caseload Profile

TENNESSEE MIDDLE			12-Month Periods Ending September 30							
			2006	2007	2008	2009	2010	2011		
Overall Caseload Statistics	Filings*		1,861	1,844	1,838	1,864	1,872	1,900	Numerical Standing Within	
	Terminations		1,831	1,574	1,719	1,787	1,732	1,890		
	Pending		1,582	1,844	1,968	2,037	2,164	2,168		
	Percent Change in Total Filings Current Year Over Earlier Year						1.5	Over Last Year	54	6
			2.1	3.0	3.4	1.9	Over Earlier Years		54	7
Number of Judgeships			4	4	4	4	4	4		
Vacant Judgeship Months**			0.0	7.0	12.0	12.0	12.0	7.0		
Actions per Judgeship	Filings	Total	466	461	460	466	468	475	38	3
		Civil	384	387	381	368	378	394	29	3
		Criminal Felony	63	61	63	76	67	57	54	6
		Supervised Release Hearings	19	13	16	22	23	24	49	6
	Pending Cases		396	461	492	509	541	542	19	2
	Weighted Filings**		479	463	456	500	495	538	29	2
	Terminations		458	394	430	447	433	473	36	2
	Trials Completed		29	34	23	30	24	38	6	2
Median Time (Months)	From Filing to Disposition	Criminal Felony	10.5	10.0	10.9	14.2	11.1	14.5	87	8
		Civil**	10.2	9.1	9.2	9.4	8.8	9.7	65	4
	From Filing to Trial (Civil Only)**		25.4	26.5	23.5	22.0	31.3	22.7	32	3
Other	Number (and %) of Civil Cases Over 3 Years Old		47	40	55	139	283	374	859	
			3.6	2.5	3.3	8.3	15.8	20.2		
	Average Number of Felony Defendants Filed per Case		1.5	1.5	1.2	1.4	1.5	2.0		
	Jurors	Average Present for Jury Selection	47.1	86.3	42.7	39.9	31.9	35.8		
		Percent Not Selected or Challenged	47.9	69.9	40.3	30.2	29.6	24.4		

**For National Profile and Nature of Suit and Nature of Offense Classifications Shown Below
Open the Fold-Out Page at the Back Cover**

2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense													
Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1,574	130	72	376	15	32	132	152	144	36	334	1	150
Criminal*	226	12	44	22	59	25	19	21	9	5	4	2	4

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

** See "Explanation of Selected Terms."

U.S. District Court -- Judicial Caseload Profile

CALIFORNIA CENTRAL			12-Month Periods Ending September 30							
			2006	2007	2008	2009	2010	2011		
Overall Caseload Statistics	Filings*		12,909	14,154	15,144	16,170	16,131	17,236	Numerical Standing Within	
	Terminations		13,680	13,642	14,742	15,973	16,076	17,168	U.S.	Circuit
	Pending		12,401	11,817	12,221	12,303	12,389	12,496		
	Percent Change in Total Filings Current Year Over Earlier Year						6.9	Over Last Year		
			33.5	21.8	13.8	6.6	Over Earlier Years		10	4
Number of Judgeships			28	28	28	28	28	28		
Vacant Judgeship Months**			53.9	31.2	12.0	32.6	32.8	21.0		
Actions per Judgeship	Filings	Total	461	505	540	578	576	616	15	4
		Civil	397	425	433	486	495	545	6	2
		Criminal Felony	36	47	63	52	45	43	80	14
		Supervised Release Hearings	28	33	44	40	36	28	40	12
	Pending Cases		443	422	436	439	442	446	35	8
	Weighted Filings**		518	551	578	622	602	655	9	3
	Terminations		489	487	527	570	574	613	12	4
	Trials Completed		12	12	11	12	13	13	76	12
Median Time (Months)	From Filing to Disposition	Criminal Felony	12.4	12.1	7.5	9.0	11.4	10.9	65	13
		Civil**	7.2	6.8	7.0	5.7	5.7	5.6	5	1
	From Filing to Trial (Civil Only)**		21.3	21.3	22.0	19.0	19.7	19.7	17	3
Other	Number (and %) of Civil Cases Over 3 Years Old		1,240	712	821	774	822	667	586	
			11.6	7.2	8.1	7.6	7.9	6.3		
	Average Number of Felony Defendants Filed per Case		1.6	1.3	1.5	1.7	1.5	1.6		
	Jurors	Average Present for Jury Selection	64.1	60.6	60.9	77.3	56.4	51.0		
		Percent Not Selected or Challenged	55.7	56.5	53.7	63.9	56.0	50.8		

**For National Profile and Nature of Suit and Nature of Offense Classifications Shown Below
Open the Fold-Out Page at the Back Cover**

2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense													
Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	15,257	913	340	2,891	154	1,675	937	2,009	690	1,297	1,589	23	2,739
Criminal*	1,194	9	175	478	63	234	46	53	30	31	9	22	44

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

** See "Explanation of Selected Terms."